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December 29, 2006

Honorable Jennifer M. Granholm
Governor of Michigan

Honorable Members of the Senate

Honorable Members of the House of Representatives

The enclosed report on the Status of Interconnection of Telecommunications Providers in Michigan is submitted on behalf of the Michigan Public Service Commission in accordance with Section 353 of the Michigan Telecommunications Act as amended in November 2005. This report will be available on the Commission website at www.michigan.gov/mpsc.

The purpose of this report is to inform you of the issues, scope, terms and conditions of interconnection of telecommunications providers in the provision of basic local exchange service.

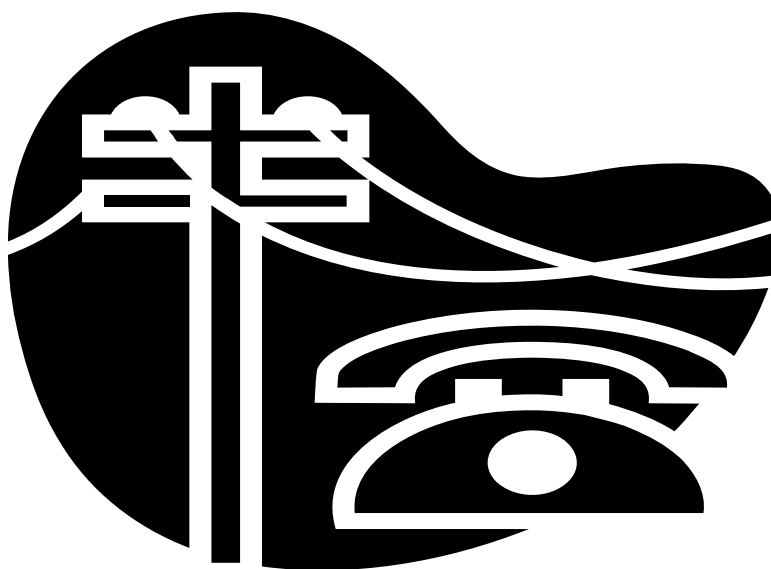
Sincerely,

J. Peter Lark, Chairman
Michigan Public Service Commission

Laura Chappelle, Commissioner
Michigan Public Service Commission

Monica Martinez, Commissioner
Michigan Public Service Commission

Status of Interconnection of Telecommunications Providers in Michigan



MICHIGAN PUBLIC SERVICE COMMISSION

DECEMBER 2006

Introduction

On November 22, 2005, Governor Jennifer M. Granholm signed into law 2005 PA 235 (Michigan Telecommunications Act or MTA).¹ Section 353 of the MTA states as follows:

The Commission shall issue a report and make recommendations to the legislature and the governor on or before January 1, 2007 involving the issues, scope, terms, and conditions of interconnection of telecommunication providers with the basic local exchange service. (MCL 484.2353; MSA 22.1469(353))

The MTA focuses on competition in the telecommunications industry, replacement of regulation where possible by competitive forces to set prices, terms, availability, and conditions of services. The Act also encourages economic development, introduction of new services, licensing of competitive local exchange carriers (CLECs), streamlining the process of dispute resolution, tariff design, price design, and consumer protections.

In 1998, the Michigan Public Service Commission (Commission) issued its [Report on Local Telephone Interconnection of 1998](#).² In order to encourage growth of competition in the local telecommunications services market, a means of interconnecting the facilities of incumbent providers with those of competitive and wireless providers was required. In the absence of interconnection arrangements, competitive companies would be required to incur the prohibitive cost of building an infrastructure duplicating the network and facilities that are already in place. When the 1998 Report was issued, the Federal Telecommunications Act of 1996 (FTA)³ had been in effect for less than two years and the process for establishing competition and interconnection in the local exchange market was still being developed.

¹ Michigan Telecommunications Act, MCL 484.2102 *et seq.*

² <http://www.cis.state.mi.us/mpsc/comm/reports/localcon.htm>

³ Federal Telecommunications Act of 1996 (FTA), 47 USC 251 *et seq.*

Prior to the FTA of 1996, the Commission, with the cooperation of Michigan's telecommunications providers, had established some rules defining the relationship between providers. This history is discussed in the first Report on Local Telephone Interconnection. Since that time, CLECs have increased from 28 licensed CLECs to the current 223, of which 132 have interconnection agreements (ICAs) with at least one incumbent local exchange carrier (ILEC). New technologies, such as voice over internet protocol (VoIP), expanded wireless services, broadband, and cable telephony, not thought of as commercially viable in 1998 are changing the telecommunications landscape with ever-increasing speed.

Mergers and acquisitions have also played a significant role in the changing telecommunications industry. GTE Corporation and Bell Atlantic Corporation merged and are now Verizon Communications (Verizon). Ameritech Corporation and Southwestern Bell merged to become SBC Communications, Inc. SBC Communications Inc. and AT&T Corp., now known as AT&T, merged and most recently have applied for approval to acquire Bell South. Lastly, Verizon Communications merged with MCI Telecommunications, Inc. to become Verizon. Merger activity among CLECs has also occurred and continues to be quite active. A few of the most noteworthy CLEC mergers are; XO Communications Services, Inc. (XO) which acquired Allegiance Telecom of Michigan, Inc. and Coast to Coast Telecommunications, Inc.; Talk America, Inc. (Talk America) which acquired LDMI Telecommunications, Inc.; Comtel Telecom Assets (Comtel), LP acquired Excel Telecommunications, Inc. and VarTec Telecom, Inc., and Level 3 Communications, LLC (Level 3) acquired ICG Telecom Group, Inc. and Wiltel Local Network LLC (Wiltel). Most recently Cavalier Talk & TV acquired Talk America, Inc.

Another significant change in the telephony landscape occurred when the FCC gave approval to the former Bell Operating Companies allowing them to participate in the in-region

long distance telecommunications market. AT&T Michigan has offered in-region long distance service since it gained FCC approval in 2003. As of the end of November 2006, there were 263 licensed providers of basic local exchange services in Michigan. Of that total, 40 were ILECs, and 223 were CLECs. During 2006, the Commission received and approved requests to surrender 10 CLEC licenses. Of the 223 licensed CLECs, 110 have filed tariffs, required before a company provides regulated services. CLECs choose the territory in which they provide service so there are areas in the state that may not have an active CLEC. Over the past 10 years, fifteen ILECs have expanded their operating territories to compete in additional exchanges and areas (expanding into other ILEC's territory). For more information, please see the 2005 annual report on the [Status of Telecommunications Competition in Michigan](#).⁴

Procedures for Interconnection Agreement as prescribed by the FTA

Competition in local telephone service market requires the availability of interconnection between ILECs and CLECs. The FTA (Sections 251 and 252) and FCC Orders have set forth the rules for interconnection. The MTA requires consistency with the FTA. The FTA provides that ICAs be established through either a negotiation or arbitration process.

Both federal and state regulators encourage providers to utilize negotiation to develop ICAs. ILECs are required to utilize the negotiation process for an ICA with a requesting competitive telecommunications provider. If an agreement is reached, the parties submit the agreement to the Michigan Public Service Commission (Commission) for approval. During the period from the 135th to the 160th day after the day the ILEC receives a request to negotiate an agreement, either party to the negotiation may petition the Commission to arbitrate any open issues. The non-petitioning party may file a response. The Commission must resolve each issue set forth in the petition and the response not later than nine (9) months after the date the ILEC

⁴ http://www.michigan.gov/documents/statusoftelecomcompetition2005_161126_7.pdf

received the request for interconnection. The Commission has established a process to ensure timely completion of arbitration requests brought before it.

Under Section 252(i) of the FTA, ILECs must make available any approved interconnection agreement to other requesting parties with the same terms and conditions. This requirement has resulted in a decrease in both the number of arbitration requests and the time required to reach negotiated agreements.

Although wireless providers are not licensed as basic local exchange service providers, they do interconnect with providers of basic local exchange service under Section 252 of the FTA. The FCC's recent February 24, 2005 Declaratory Ruling⁵ and 47 CFR 20.11d⁶ have caused wireless providers to negotiate ICAs with Michigan ILECs. The FCC order determined that rural or small ILECs could no longer impose tariffs to determine intercarrier compensation with commercial mobile radio service (CMRS) providers, more commonly referred to as wireless providers. In addition, ILECs are now permitted to approach wireless providers to begin negotiations for ICAs. (Because of this more recent application of federal ICA procedures, the wireless providers were offered the opportunity to provide comments to be considered in the preparation of this report.)

Some refinements of interconnection requirements have also occurred. Recent refinements were defined in the FCC Triennial Review Order (TRO)⁷ and the FCC Triennial Review Remand Order (TRRO)⁸ and in related court rulings. These federal court decisions

⁵ *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, FCC 05-42, 20 FCC Rcd. 4855 (2005).

⁶ 47 CFR 20.11(d) provides: "Local exchange carriers may not impose compensation obligations for traffic not subject to access charges upon commercial mobile radio service providers pursuant to tariffs."

⁷ *In Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 18 FCCR 16978 (FCC rel. Aug 21, 2003), *vacated in part*, *United States Telecom Assn v FCC*, 359 F.3d 554 (DC Cir 2004).

⁸ *Order on Remand, In re Unbundled Access to Network Elements*, 20 FCCR 2533, 2005 WL 289015 (FCC Rel. Feb 4, 2005), *aff'd sub nom.*, *Covad Comms Co v FCC*, 450 F.3d 528 (DC Cir 2006).

redefined the facilities and services that incumbents are required to offer to competitive companies.

During 2005 and 2006, the issuance and implementation of the FCC's TRO and TRRO orders diminished the numbers of formally filed interconnection disputes before the Commission. The Commission established a collaborative process among interested industry parties to facilitate the implementation of those FCC orders. Ultimately, parties were able to resolve most issues, leaving only a few policy issues for Commission determination. Verizon and two CLECs continue to negotiate, and their unresolved issues are pending before the Commission at this time.

Two arbitrations filed during 2006 were disputes between rural ILECs and wireless companies. As noted above, an FCC order issued early in 2005 requires those parties to utilize the Section 252 provisions of the FTA for interconnection arrangements.

Emerging technologies have caused some conflict between carriers regarding interconnection and intercarrier compensation. Companies providing varying services must rely on other carriers to complete calls between customers. There is strong concurrence among carriers that the current design of intercarrier compensation leads to the exploitation of some carriers by others. The National Association of Regulatory Utility Commissioners (NARUC) and industry parties formed a task force to address this issue. The goal of the NARUC Task Force on Intercarrier Compensation was to develop a consensus proposal to redefine, 1) the relationship between carriers for physical interconnection and intercarrier compensation, and 2) compensation between carriers for transporting and terminating calls. After several years of discussion, on July 24, 2006, the NARUC Task Force on Intercarrier Compensation submitted to

the FCC⁹ a non-consensus multi-year plan for intercarrier compensation reform (the Missoula Plan). The plan, which was neither endorsed nor opposed by NARUC, has caused much debate. The FCC is currently taking comments on the Missoula Plan.¹⁰

Status of Interconnection

The statistical information contained in this report regarding the status of interconnection was gathered through a survey, as well as information made available to the Telecommunications Division as it performs its daily regulatory functions. The vast majority (approximately 90% of the current ICAs) are negotiated or 252(i) adopted agreements.

The following table provides information about the status of interconnection. It reflects the numbers of approved, current ICAs between licensed CLECs and ILECs (Column B), and between ILECs having competitive operations (Column C). The table shows that of the 223 currently licensed CLECs, 132 CLECs have at least one ICA with an ILEC. CLECs have entered into interconnection arrangements primarily with AT&T and Verizon. There are 121 approved ICAs between AT&T and CLECs, 68 of which are the only ICAs for those CLECs. With respect to Verizon, there are 64 approved ICAs between Verizon and CLECs, 10 of which are the only ICAs for those CLECs. The remaining list on the table picks up the approved ICAs that CLECs have with ILECs other than AT&T or Verizon (the rural ILECs).

⁹ Further Notice of Proposed Rulemaking, *re Developing a Unified Intercarrier Compensation Regime*, FCC 05-33, CC Docket No. 01-92 (released March 3, 2005).

¹⁰ *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92; DA 06-2339 (November 20, 2006), *see also*, 71 Fed Reg 70709 (FCC 47 CFR Chapter I).

Interconnection arrangements between ILECs have always existed. Only the ICAs for competing situations are reflected in the table below. Finally, there are a couple of CLEC to CLEC approved ICAs and 10 CLEC to Commercial Mobile Radio Service (CMRS) approved ICAs in Michigan which are not included in the table.

Approved ICAs		
A	B	C
Interconnecting ILECS	Total Licensed CLECs with ICAs	ILECS with ICAs for Competitive Operations
AT&T Only	68	5
AT&T and Verizon	43	1
Verizon Only	10	3
AT&T, Verizon and Other ILECs	10	0
Verizon and Other ILECS	1	0
Total ICAs	132	9

Turning to the status of interconnection between wireless providers and ILECs, statistics are available on those approved ICAs also. Currently, 28 wireless providers have approved ICAs with at least one ILEC in Michigan. ICAs between AT&T and Verizon and the wireless providers have existed for several years. ICAs between wireless providers and the rural ILECs are a relatively new occurrence, since the FCC order issued in 2005, identified earlier in this report (*see* fn.1, p 4). Copies of all [current approved ICAs](http://www.dleg.state.mi.us/mpsc/comm/agreements/interconnectionagreement.htm)¹¹ are available on the Commission website. [Summary tables](http://www.dleg.state.mi.us/mpsc/comm/agreements/interconnections.htm)¹² of those agreements, grouped by ILEC, according to whether the

¹¹ <http://www.dleg.state.mi.us/mpsc/comm/agreements/interconnectionagreement.htm>

¹² <http://www.dleg.state.mi.us/mpsc/comm/agreements/interconnections.htm>

ICA was negotiated or arbitrated are also available on the Commission website. The weblinks cited above contain the ICAs and summary ICA information for CLEC as well as wireless approved ICAs.

Interconnection Survey

For purposes of preparing this report, the Commission staff solicited comments from ILECs, CLECs, and wireless providers.¹³ Attachment A contains the questionnaire that was sent to licensed providers and known wireless providers. Attachment B lists the companies that responded to the survey.

Summary of Responses

Responses to individual survey questions are briefly summarized below by category of carrier (ILEC, CLEC, and Wireless). Many of the responses to the questions were rather succinct, generally companies did not elaborate on their responses. The summary reflects the explanations and/or support provided by a responding company for any particular comment offered. These responses are attributable only to industry respondents and do not reflect the opinion of the Commission.

- **Question 1.**
Please briefly describe the scope, terms, and conditions of interconnection that are relatively the same in your agreements with other companies.

ILECs Response

ILECs reported that the content of interconnection agreements is relatively the same. Agreements include, among other components, unbundled network elements, facility sharing factors, dispute resolution language, and time limitation of the agreement. Terms vary according to unique situations and business plans of the interconnecting providers. Generally, where

¹³ Approximately 265 surveys were emailed or mailed and responses were received from 45 companies (*see* Attachment B).

practicable, AT&T's ICAs are 13-state agreements covering all of its corporate operating territory. Verizon utilizes a current comprehensive interconnection agreement, which shows the rates, terms and conditions Verizon offers to all Michigan CLECs.

CLECs Response

American Fiber Network, Navigator Telecommunications, LLC (Navigator Telecom), DPI Teleconnect, Global Connection, TDS Metrocom, and XO Communications stated that arrangements are substantially the same and include for example, unbundled network elements, reciprocal compensation, shared facility factors, and dispute resolution language. Terms and agreements with ILECs are substantially the same among those providers. Most of the companies responding had standard resale and/or commercial agreements with the ILECs rather than ICAs.

Wireless Response

Agreements generally include termination compensation, physical means of interconnection, and billing factors. The agreements vary in terms of where the ILECs want to interconnect (facility configuration), intercarrier compensation rates, and billing factors. In some cases where traffic is minimal, third party transit services are used rather than establishing direct connections. This configuration is more common among rural ILEC's interconnection with wireless providers. Billing factors are used to apportion facility charges and reciprocal compensation.

- **Question 2.**
Please briefly describe the scope, terms, and conditions of interconnection that are different in your agreements with other companies.

ILECs Response

Verizon, AT&T and Barry County Telephone Company state that any carrier may negotiate unique or specific terms and conditions into an ICA. Carriers typically negotiate specific language depending on their given business model. A carrier may propose specific language and an ILEC may propose counter language if the carrier's request cannot be provisioned as proposed based on legal, policy, or technical limitations. Verizon agreed with AT&T that companies may negotiate some elements of an ICA depending on their business plans. Some CLECs choose to adopt other companies' ICAs via the Section 252(i) FTA process so, in that way, there are many ICAs that are completely the same. For instance, Verizon stated that eleven companies have adopted the Verizon/TelNet agreement and eight have adopted the Verizon/AT&T agreement (prior to the AT&T merger with SBC; AT&T's CLEC operation).

CLECs Response

Thirteen of the responding CLECs had specific answers for this question. Several stated that all ICAs were the same except for the prices that different ILECs charge for services. The reservation of rights language differed in some agreements. Navigator Telecom commented that the ILECs tend to offer a generic agreement and the CLECs can take it or leave it.

Wireless Response

Dobson Cellular said billing factors, compensation rates and interconnection architecture may vary among agreements. T-Mobile commented that agreements do not have specific terms or conditions that would be considered different from those of other similarly situated CMRS providers.

- **Question 3.**
In what ways are the interconnection requirements of the MTA and FTA different?
Please explain.

ILECs Response

The small ILECs indicated they were not in conflict with the MTA in following requirements of the FTA. AT&T points out that Section 201(2) of the MTA requires that the Commission exercise its authority and jurisdiction consistent with the federal telecommunications laws, rules, orders and regulations. Verizon does not agree that Michigan is in complete compliance with the federal rules, stating the MTA has negotiating constraints that may not be consistent with the FTA.

CLECs Response

The replies of most CLECs indicated that they had noted no differences in interconnection requirements between the Federal and State regulatory agencies, although some said they had not researched the topic. Talk America noted that for costing principles, the FTA uses total element long run incremental cost (TELRIC) while the MTA uses total service long run incremental cost (TSLRIC). Talk America also notes that Section 355 of the MTA states that all local exchange providers:

. . . shall unbundle and separately price each basic local exchange service offered by the provider into the loop and port components and allow other providers to purchase such services on a nondiscriminatory basis. (2) Unbundled services and points of interconnection shall include at a minimum the loop and the switch port.

Talk America follows up by explaining that the FTA Sections 251 and 252 directly conflict with this and only requires ILECs to unbundle their networks, not individual services. However, the MTA requires the Commission to comply with the FTA if there is a conflict.

In its response to this question and the following question, Level 3 reiterated its arguments made in the Commission's virtual nxx (VNXX) proceeding (Case No. U-14683).

Level 3 indicates that it has experienced ILECs threatening denial of interconnection, the threat of having its traffic blocked, and discrimination against the company's customers. Level 3 states that these actions are examples of ILECs erecting barriers to potential competitors. Level 3 contends that it is the ILEC's responsibility to deliver its traffic to the CLEC at its one required interconnection point per LATA. Internet traffic is one-way traffic from the ILEC to the CLEC and upsets the balance of intercarrier compensation between providers. Level 3 points out that the Michigan Commission has historically ruled that calls are to be classified local or toll calls depending on the rate center of the originating and terminating provider, *i.e.*, NXX. The rewrite of the MTA in 2005 allows ILECs to classify calls as toll in filed tariffs where the physical presence of the two parties involved in a call are not in the same or adjacent exchanges beginning December 31, 2007. It is Level 3's position that this change may have serious consequences for Level 3 and other CLECs that have large internet customers in terms of the design of their networks and revenue stream. As it did in the VNXX proceeding, Level 3 proposed legislative language changes to the MTA to eliminate Section 304(9). The [VNXX report](#)¹⁴ issued in June 2006, can be reviewed on the Commission's web site.

Wireless Response

Wireless respondents did not take a position on this question.

- **Question 4.**
Please identify any significant problematic issues you have experienced in establishing or implementing interconnection agreements. Please explain.

ILECs Response

The small ILECs had little issue with this topic. CenturyTel expressed that a lack of clarity in federal law allows CLECs to exploit the ILEC to obtain obligations from the ILEC to

¹⁴ http://www.michigan.gov/documents/vnxxreporttolegislature063006_164372_7.pdf

which they are not entitled. Barry County Telephone Company said it had problems regarding how to count minutes and what rates apply.

Verizon took issue with the fact that the CLECs do not each negotiate ICAs with them, instead choosing to let one CLEC act as the lead CLEC negotiating or arbitrating with Verizon, and then others follow by adopting that company's agreement. Verizon contended that the Commission has not acted to curb this pattern which it characterized as abusive. Indeed, Verizon attributes the fact that its single largest and most expensive arbitration occurred in Michigan to this practice by Michigan CLECs.

AT&T listed several problems it has experienced with implementing changes into ICAs brought about by changes required by the TRO (*see* fn.3) and TRRO (*see* fn.4) and related Orders issued by the Commission to implement the federal changes.¹⁵ In the cases cited, the Commission had directed the parties to amend their ICAs to reflect the requirement of certain Commission orders. AT&T noted in detail the additional procedural steps it had to take, such as several filed Motions to Compel to get certain CLECs to cooperate and follow those Commission orders. Several follow-up Commission orders were required to achieve full compliance by CLECs.

CLECs Response

American Fiber Network, Empire One, and Clear Rate are of the opinion that the process of reaching agreements takes too much time. Clear Rate commented that ILECs force unreasonable conditions to establish an ICA. This causes a costly process for the CLEC in arbitration and unreasonable delay in establishing an ICA. CLECs argue that ILECs benefit from the lengthy process since it delays a competitor from entering the market and the cost to ILECs is relatively small. Corvus stated ICAs are not largely honored by AT&T and become

¹⁵ See docket in Case Nos. U-14463, U-14447 and U-13531 (UNE Cost).

costly to enforce. DPI Teleconnect said that there is a “take it or leave it” attitude from the large ILEC to CLECs. Empire One stated that ILECs do not provide the same quality of service to CLEC customers as they do their own, ILECs have complicated billing practices and TDS Metrocom added that ILECs will not negotiate on a timely basis or make changes to ICAs when requested. A few CLECs (Comtel and Navigator Telecom, and XO Michigan) suggested that negotiation implies parties of equal bargaining power and because parties are not equal, a CLEC must take what the ILEC offers.

Comtel and Nexus were positive about their experiences and have not had any problems, or said most ILECs facilitate the establishment of an agreement. Sprint compliments the Commission on its forward-looking approach and hopes it will continue its efforts.

Wireless Response

Dobson Cellular commented that the smaller ILECs do not yet recognize the obligation to assume the cost of transporting local calls as the terminating carrier instead of imposing access charges on those calls. The company also mentioned that in some cases calls are not recognized as “local” unless the wireless carrier has established a direct connection to the particular rate center.

T-Mobile referenced a pending case, No. U-14781, and said that case will likely highlight any problematic issues in establishing or implementing ICAs. Case No. U-14781 is a proceeding under the Commission’s own motion to investigate the TSLRIC of certain rural ILECs, as a result of an interconnection arbitration dispute between Verizon Wireless and a group of rural ILECs.

- **Question 5.**
Are there legislative changes you might suggest to facilitate the interconnection process here in Michigan?

ILECs Response

Since the FTA prevails on interconnection matters, Verizon had no suggestions for legislation, other than eliminating Article 3a of the MTA. Article 3a of the MTA addresses interconnection of telecommunication providers with the basic local exchange service. AT&T has no recommendations at this time. The smaller ILECs, while stating there are problems with the costs and time issues in establishing ICAs, had no specific suggestions for legislative changes at this time.

CLECs Response

Most CLECs are satisfied with the current statutes and proposed no changes. American Fiber Network explained that in Texas, if a CLEC adopts a previously approved ICA that AT&T offers, the approval of the regulatory agency occurs in one day. Clear Rate mentioned that the cost of co-location in an ILECs office is its most important problem. Since co-location is an integral part of UNE-Loop provisioning, more reasonable costs and access to the facilities or third party ownership would be positive. Corvus suggested that implementing automatic faults and penalties for ILECs when violations of the law occur would be helpful. Those fines should increase on a graduated scale for continued violations and the fines should be shared with smaller CLECs which are forced to finance ICA enforcement. DPI Teleconnect commented that ILECs should be required to pass on promotional rates to companies with which they have ICAs or resale agreements. Talk America suggests that the MTA should be amended so that costing principles are consistent with the FTA.

TDS Metrocom (TDS) suggests that, as was recommended by the company in the last MTA rewrite, the current Section 203 requirements are burdensome and discourage providers from seeking Commission assistance to resolve disputes. TDS further states that required documentation for filing a complaint poses a substantial barrier to CLECs in bringing an issue to the Commission. TDS states that a less burdensome process, facilitating earlier Commission intervention in disputes, would allow providers to resolve disputes faster and less expensively. However, no specific process was proposed by TDS.

TelNet suggests that, “Interconnection between approved local carriers should be mandated at UNE rates and the monopoly company should be forced to offer loops and transport at cost based UNE pricing.” TelNet argues:

The legislature cannot forget that the public switched telephone network was built on the backs of the consumer in a monopoly environment with guaranteed rates of return. Now the same monopoly providers want everyone to think they built the public [network] in a risky, competitive environment.

Finally, Telnet states “that the network should be forced open at cost based rate of return.” Telnet did not propose specific legislative language to address these problems, however, the proposed solutions (identified in response to question 4), may indeed require legislative action for the Commission to implement. Those proposed solutions to issues Telnet has experienced or observed are first, that a safe-harbor interconnection agreement be established, “a template ICA that is pro-competition with content and decisions that have been tried and resolved by the MPSC.” Second, Telnet proposes that, “an ICA opt-in fee paid to the company that negotiated and arbitrated the agreement” be established. Finally, Telnet proposes that a case fund be established that would be:

A fee paid by ALL LECS to help fund the cost of negotiating and defending ICAs. Potentially companies could pay into the fund based on size, but then

draws on the fund would be equal in a contested case or lawsuit between [two] companies involving ICAs.

Wireless Response

The only proposal from wireless providers for legislative changes came from Sprint. While Sprint's proposed language for legislative changes is summarized here in the wireless provider's section, Sprint did not indicate in its reply to the survey from which perspective of its three operating entities in Michigan it was responding. Sprint operates in Michigan both as CLEC and two identified wireless providers.

Sprint has found that ILECs use ambiguities in federal interconnection statutes to refuse or delay negotiations to establish ICAs. According to Sprint, incumbents use these ambiguities to impose unreasonable terms or conditions on companies requesting interconnection. In order to eliminate what Sprint considers anti-competitive ploys, it proposes the following language:

Any provider of wholesale or retail voice service is entitled to interconnection with the networks of incumbent local exchange companies. Upon receipt of a request for interconnection, an incumbent local exchange company shall immediately begin negotiations and submit to arbitration according to the standards established in 47 USC Section 252. An incumbent local exchange carrier may not rely on Section 251(f) (1) or 251(f) (2) or the certification status of the requesting carrier as a basis to refuse to negotiate or submit to arbitration with the requesting carrier. The Commission is permitted to impose penalties on incumbent telephone companies for non-compliance that results in a denial or delay of interconnection.

Sprint explained that competitors rely heavily on large ILECs for transit services. A call that originates on the network of one carrier connected to an intermediary tandem switch, is transited through that switch, and the call is terminated on the network of another carrier which is also connected to the aforementioned tandem. Telephone companies say they are not obligated to provide transit and so exploit their tandem bottleneck to raise the costs to competitors by refusing transit or by assessing unreasonable "market-based" transit rates. Sprint

states that every competitive carrier must interconnect with the incumbent because the incumbent has access to the largest number of customers. This puts the incumbents in the middle of all the other carriers which must exchange telephone calls with each other. States must not allow incumbents to abuse their necessary transit market power to avoid competition by threatening or refusing to transit traffic or assessing exorbitant transit rates. States should adopt an explicit obligation for telephone companies to provide transit service at cost-based rates. In order to alleviate this problem Sprint suggests the following language:

Incumbent Local Exchange Carriers that operate a switch used to exchange traffic with any wholesale or retail voice service provider must allow traffic exchange between any two or more voice service providers connected at the same Incumbent Local Exchange Carrier switch. ILECs must provide that service at forward looking cost based rates established in accordance with 47 U.S.C. Sec. 252(d)(1) and at reasonable terms and conditions to any requesting wholesale or retail voice service provider.

Sprint explained one additional problem it has with incumbents in establishing ICAs. Sprint alleges that telephone companies try to impose a disproportionate share of the cost of the interconnection facility on competitors. Sprint indicated that ILECs insist that competitors be responsible for the entire cost of a facility, even though the incumbent uses the facility itself to deliver calls its customers make to Sprint Nextel customers. The incumbent assesses inflated access rates instead of cost-based rates as required by the federal Act. Further, Sprint asserts that ILECs insist that Sprint Nextel segregate its wireless, wireline, toll, and local traffic onto separate trunks, a very inefficient network arrangement. As the industry migrates to a converged and fully packetized switching platform where all types of telecommunications traffic traverse a single platform, Sprint proposes that states should establish specific requirements on ILECs to ensure efficient and symmetrical interconnection arrangements. To correct this problem, Sprint suggests the following legislative change:

An Incumbent Local Exchange Carrier is required to share the cost of an interconnection facility with interconnecting carriers based on the ILEC's proportionate use of the facility. An Incumbent Local Exchange Carrier is required to lease interconnection facilities to interconnecting carriers at cost-based rates established in accordance with the pricing standard contained in Section 252(d)(1) of the federal Act. Incumbent Local Exchange Carriers are prohibited from requiring interconnecting carriers to segregate traffic onto separate interconnection trunks or facilities when such segregation is based on regulatory traffic classifications. Incumbent Local Exchange Carriers are financially responsible for delivery of traffic originated by their customers to the network of interconnecting carriers including responsibility for interconnection facilities and transit charges.

Conclusions and Recommendations

Many changes have occurred in the telecommunications industry since the FTA of 1996. The rewrite of the MTA in November 2005 makes competition one of the most important factors in determining telecommunications regulatory policy. Federal regulatory changes that took into account increased competition have resulted in more services offered to competitive carriers via commercial ICAs. These incorporate market-based rates rather than the previously used regulated cost-based rates.

The competitive providers are still somewhat reliant on ILEC networks and ICAs to reach potential customers, particularly for "last mile" type of connections. The process of establishing ICAs between ILECs and competitive providers has developed so that it generally proceeds without delay or disputes. For some smaller ILECs, and some CLECs, the cost and time element involved in establishing ICAs is problematic. However, that is improving as competitive business plans evolve, and the industry moves to second and third generation ICAs under the FTA of 1996. For the largest ILECs, a lack of cooperation they see by some CLECs causes increased costs.

Michigan is limited in its ability to address many of the problems companies reported in their survey responses. Michigan is bound by federal rules in the specific elements contained in

ICAs and the process of establishing interconnection of facilities. Michigan operates consistently with the FTA as required by the MTA. This consistency throughout the country is important in the global economy where telecommunications companies operate across several states (AT&T for example has operations in 13 states), as well as internationally.

There are disputes and some frustration among providers as is shown in the summary of comments. In spite of these, the ability of carriers to provide services and compete for customers exists. Providers continue to work together to make agreements to interconnect their facilities. Consumers do have choices in local telephone providers because of the progress Michigan has made in facilitating processes to interconnect providers as well as the industry's implementation of new technologies.

The rewrite of the MTA in 2005 reduced rate regulation for local service to one local calling plan, Primary Basic Local Exchange Service (PBLES). Customers of local service have a choice of PBLES or other local services with market-based rates. The introduction of PBLES by the MTA in 2005, gives users who choose to stay with a rate-regulated service, a basic telephone service at just and reasonable rates.

Few survey respondents had suggestions for legislative changes, in fact most said they recommended no legislative changes be made at the current time. A few companies mentioned changes they would like to see in the establishment and enforcement of ICAs, but did not propose language for legislative changes. In general, Section 305 of the MTA gives a provider a basis for bringing a complaint to the Commission if impeded by another provider from reaching potential customers. In addition, the FTA and federal rulings define much of the ICA process.

Sprint proposed specific legislative language changes. It is important to note that Sprint, operating as both a CLEC and wireless provider in Michigan, did not identify from which operational perspective it was arguing for the need for legislative change.

Sprint has experienced what it considers some anti-competitive tactics by ILECs in negotiating ICAs. Sprint asked for legislative changes to eliminate interference by ILECs in establishing and enforcing ICAs and allowing unfettered access to incumbent networks. Section 305 of the MTA gives the company a forum in which to bring complaints where impeded from interconnection.

Sprint points out that competitive carriers are dependent on ILECs to transit calls. The company has experienced some reluctance by ILECs to willingly and reasonably provide that service. The Commission has historically supported transiting arrangements (for example, see Case No. U-13758). Transiting is also part of the Missoula Plan discussions.

The 1998 Interconnection report contained recommendations that the legislature has since addressed. The legislature has empowered the Commission to order mediation in resolving interconnection disputes, grant emergency relief where appropriate and use other means to streamline and resolve disputes. In addition, the Commission also has specific authority to implement provisions of the FTA in accordance with federal and state law.

Since remedies are in place for most situations, and because the Missoula Plan discussions at the FCC may lead to a comprehensive plan which might solve most provider to provider relationship problems, the Commission does not recommend any legislative changes at this time.

Attachment A

**Michigan Public Service Commission
Telecommunications Division
10/5/06**

Interconnection Survey

1. Please briefly describe the scope, terms, and conditions of interconnection that are relatively the same in your agreements with other companies?
2. Please briefly describe the scope, terms, and conditions of interconnection that are different in your agreements with other companies?
3. In what ways are the interconnection requirements of the MTA and the Federal Telecommunications Act (FTA) different? Please explain.
4. Please identify any significant problematic issues you have experienced in establishing or implementing interconnection agreements. Please explain.
5. Are there legislative changes you might suggest to facilitate the interconnection process here in Michigan?
6. Do you have interconnection arrangements in effect with companies that were reached by means other than by negotiation (including 252i adoption) or arbitration? What process was used and how many interconnection agreements do you have in effect that were reached by these means? Please provide a list and summary of those agreements.

Attachment B

Interconnection Survey
List of Responders

#	Name of Respondents
1	360networks (USA) Inc.
2	Ace Telephone Company of Michigan, Inc.
3	American Fiber Network, Inc.
4	AT&T Michigan (fka SBC Michigan)
5	Barry County Telephone Company
6	Broadview Networks, Inc.
7	Call One
8	Campus Communications Group, Inc.
9	Carr Telephone Company
10	Century Tel (CenturyTel Midwest-Michigan, Inc., CenturyTel of Michigan, Inc., CenturyTel of Northern Michigan, Inc., CenturyTel of Upper Michigan, Inc.,)
11	Chapin Telephone Company
12	Clear Rate Communications, Inc.
13	Cleartel Telecommunications, Inc.
14	Coldwater Telecommunications Utility
15	Comtel Telcom Assets LP d/b/a Excel Telecommunications and VarTec
16	Corvus, Inc.
17	Cricket Communications
18	Cypress Telecommunications Corporation, d/b/a Cytel
19	Deerfield Farmers' Telephone Company
20	Dobson Cellular
21	DPI Teleconnect, LLC
22	Empire One Telecommunications, Inc.
23	First Communications, LLC

#	Name of Respondents (cont'd)
24	Frontier Communications of Michigan, Inc.
25	Global Connection Inc. of America
26	Intrado Inc.
27	JAS Networks, Inc.
28	Lennon Telephone Company
29	Level 3 Communications, LLC
30	Matrix Telecom, Inc.
31	Mpower Communications Central Corp.
32	Navigator Telecommunications, LLC
33	Neutral Tandem – Michigan, LLC
34	Nexus Communications, Inc.
35	QuantumShift Communications, Inc.
36	Sprint Communications Company, LP
37	Talk America, Inc.
38	TDS Metrocom, LLC
39	TelNet Worldwide, Inc.
40	T-Mobile
41	UCN, Inc.
42	Upper Peninsula Telephone Company
43	Verizon North Inc., and Contel of the South, Inc. d/b/a Verizon North Systems (“Verizon”)
44	Waldron Telephone Company
45	XO Communications Services, Inc.